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**Federal Communications Commission**

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Venture Technologies Group, LLC	)	File Number: EB-03-LA-178
	)	
Licensee of Stations WPNJ965, WPTM693,	)	NAL/Acct. No. 200432900007
WPTC301 & WNTR571	)	FRN 0001530062
Los Angeles, California	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Released: September 3, 2004

By the District Director, Los Angeles Office, Western Region, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Venture Technologies Group, LLC, ("Venture") licensee of microwave stations WPNJ965, WPTM693, WPTC301 and WNTR571 in Los Angeles, California, apparently willfully and repeatedly violated Sections 1.947 and 1.903(a) the Commission's Rules<sup>1</sup> by constructing and operating four studio-to-transmitter link (STL) microwave radio stations from an unauthorized location. We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"),<sup>2</sup> that Venture is apparently liable for a forfeiture in the amount of sixteen thousand dollars (\$16,000).

**II. BACKGROUND**

2. On February 25, 2004, a field agent from the Commission's Los Angeles office inspected the microwave STL stations at Venture's studio located at 5757 Wilshire Boulevard, Los Angeles, California. Venture had five stations with transmitters installed at this location. However, the licenses for four of the stations showed the transmitter location as 6611 Santa Monica Boulevard, Los Angeles, California. The field agent observed that two of these four transmitters were in operation. On the day of the inspection, the field agent brought this issue to the attention of the vice-president and general counsel of Venture. This executive acknowledged the error and indicated to the field agent that the Santa Monica Boulevard address was the previous site of Venture's studio location and that all operations had moved to the 5757 Wilshire Boulevard address approximately two years earlier. The distance from Venture's licensed site for the four transmitters in question to the unlicensed site is approximately two miles.<sup>3</sup>

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<sup>1</sup>47 U.S.C. §§ 1.947, 1.903(a).

<sup>2</sup>47 U.S.C. § 503(b).

<sup>3</sup>The coordinates for the licensed site, 6611 Santa Monica Boulevard, Los Angeles, California, are 34°05'28" north latitude and 118°20'01" west longitude. The coordinates for the unlicensed site, 5757 Wilshire Boulevard, Los Angeles, California, are 34°03'45" north latitude and 118°21' 9" west longitude. The distance between the two sites is 103 seconds of latitude and 68 seconds of longitude.

### III. DISCUSSION

3. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. The term "willful" as used in Section 503(b) has been interpreted to mean simply that the acts or omissions are committed knowingly.<sup>4</sup> The term "repeated" means the commission or omission of such act more than once or for more than one day.<sup>5</sup>

4. Section 1.903(a) of the Rules requires that stations in the Wireless Radio Services must be used and operated only in accordance with the Rules applicable to their particular service and with a valid authorization granted by the Commission.<sup>6</sup> Section 1.947 of the Rules requires that all major modifications as defined in Section 1.929 of the Rules require prior Commission approval.<sup>7</sup> Section 1.929(d)(1)(i) of the Rules defines one of the major actions as "any change in transmit antenna location by more than 5 seconds in latitude or longitude for fixed point-to-point facilities."<sup>8</sup> At the time of an investigation by a Los Angeles Office field agent, STL microwave radio stations WPNJ965, WPTM693, WPTC301 and WNTR571 were licensed to operate from 6611 Santa Monica Boulevard, Los Angeles, California.<sup>9</sup> The investigation revealed that all four of the stations had been relocated over two miles (103 seconds of latitude and 68 seconds of longitude), without Commission approval, to 5757 Wilshire Boulevard, Los Angeles, California. The executive for the licensee acknowledged that the transmitters had been moved approximately two years earlier, and that the transmitters' licenses did not reflect their current location, therefore, the violation was willful. The violation occurred for more than one day, therefore, it was repeated.

5. Based on the evidence before us, we find that Venture willfully and repeatedly violated Sections 1.947 and 1.903(a) of the Rules by failing to obtain Commission approval prior to relocating and operating microwave STL stations WPNJ965, WPTM693, WPTC301 and WNTR571.

6. Pursuant to *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, ("Forfeiture Policy Statement"), and Section 1.80 of the Rules, the base forfeiture amount for each incident of construction or operation of a station from an

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<sup>4</sup>Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>5</sup>Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."

<sup>6</sup>47 C.F.R. § 1.903(a).

<sup>7</sup>47 C.F.R. § 1.947.

<sup>8</sup>47 C.F.R. § 1.929(d)(1)(i).

<sup>9</sup>On March 18, 2004, Venture filed applications to modify the licenses, but these applications were either dismissed or withdrawn. See File Nos. 0001662112, 0001662067, 0001662147, which were dismissed, and File No. 0001662142, which was withdrawn. Between July 13, 2004 and August 2, 2004, Venture also filed applications to modify its transmitters' licenses. See File Nos. 0001824879, 0001824916, 0001804748, 0001825455. Application File Nos. 0001824879 and 0001824916 were granted on August 27, 2004. Venture's corrective actions, after its two-year violation was brought to its attention by a Commission field agent, do not mitigate its liability. See *AT&T Wireless Services, Inc.*, 17 FCC Rcd 21866 (2002).

unauthorized location is \$4,000.<sup>10</sup> In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act, which include the nature, circumstances, extent, and gravity of the violations, and with respect to the violator, the degree of culpability, and history of prior offenses, ability to pay, and other such matters as justice may require.<sup>11</sup> Applying the *Forfeiture Policy Statement*, Section 1.80, and the statutory factors, a \$16,000 forfeiture is warranted.

#### **IV. ORDERING CLAUSES**

7. Accordingly, IT IS ORDERED that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80 of the Commission's Rules, Venture Technologies Group, LLC is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of sixteen thousand dollars (\$16,000) for violations of Section 1.903(a) of the Rules.<sup>12</sup>

8. IT IS FURTHER ORDERED that, pursuant to Section 1.80 of the Commission's Rules within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, Venture Technologies Group, LLC shall pay the full amount of the proposed forfeiture or shall file a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, IL 60661. Payment by wire transfer may be made to ABA Number 071000013, receiving bank Bank One, and account number 1165259.

10. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Western Region, Los Angeles Office, 18000 Studebaker RD., Suite 660, Cerritos, CA, 90703 and must include the NAL/Acct. No. referenced in the caption.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Requests for payment of the full amount of this Notice of Apparent Liability for Forfeiture under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>13</sup>

13. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for

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<sup>10</sup>12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. §1.80.

<sup>11</sup>47 U.S.C. § 503(b)(2)(D).

<sup>12</sup>47 U.S.C. § 503(b), 47 C.F.R. §§ 0.111, 0.311, 1.80, 1.903(a)

<sup>13</sup> See 47 C.F.R. § 1.1914

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tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the address listed above for the filing of the response. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC's Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

14. IT IS FURTHER ORDERED that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by Certified Mail, Return Receipt Requested, and regular mail, to Venture Technologies Group, LLC, 5670 Wilshire Blvd., Suite 1300, Los Angeles, CA 90036.

FEDERAL COMMUNICATIONS COMMISSION

Catherine Deaton  
District Director,  
Los Angeles Office  
Western Region  
Enforcement Bureau

Enclosure: FCC List of Small Entities